

UNITED STATES DEPARTMENT OF LABOR
OFFICE OF ADMINISTRATIVE LAW JUDGES

RECEIVED

FEB 07 2017

OFFICE OF FEDERAL CONTRACT
COMPLIANCE PROGRAMS, UNITED
STATES DEPARTMENT OF LABOR,

Plaintiff,

v.

GOOGLE, INC.,

Defendant.

Office of Administrative Law Judges
San Francisco, Ca
OALJ Case No. 2017-OFC-00004

OFCCP No. R00197955

**DECLARATION OF MARC A. PILOTIN IN SUPPORT OF PLAINTIFF'S MOTION
FOR SUMMARY JUDGMENT**

Case Subject to Expedited Proceedings under 41 C.F.R. § 60-30.31

I, MARC A. PILOTIN, hereby declare as follows:

1. I am a Trial Attorney in the Office of the Solicitor for the U.S. Department of Labor. In that capacity, I represent the Office of Federal Contract Compliance Programs, United States Department of Labor ("OFCCP"). If called as a witness, I could and would testify competently to the matters set forth in this Declaration.

2. Google is subject to a contract, effective June 2, 2014, with the General Services Administration for more than \$50,000. The contract consists of (1) the Government's solicitation; (2) Google's offer, dated July 2, 2013; (3) Google's Final Proposal Revision, submitted May 6, 2014; and (4) the relevant Standard Form 1449 and its continuing pages. *See* Ex. A-1 at 1B. True and correct copies of the relevant contract documents are attached as **Exhibits A-1, A-2, A-3, and A-4:**

a. **Exhibit A-1:** The Standard Form 1449 and accompanying pages related to

Contract No. GS07F227BA between Defendant Google, Inc. and the General Services Administration for “Advertising and Integrated Marketing Solutions (AIMS).”

- b. **Exhibit A-2:** The Solicitation Document associated with the Exhibit A-1, which I received from the General Services Administration.
- c. **Exhibit A-3:** The text of the regulations incorporated by reference in the Solicitation Document associated with the Exhibit A-1, which I received from the General Services Administration.
- d. **Exhibit A-4:** An Offer Responses Document, submitted by Google, on May 6, 2014.

3. Attached as **Exhibit A-5** is a true and correct copy of a letter, contained in the General Services Administration’s file for Contract No. GS07F227BA, dated April 23, 2014 from Courtney K. Rose, Google’s Head of Government & Associations, to Lorena Aslan, Contracting Officer, General Services Administration.

4. Attached as **Exhibit B** is a true and correct copy of a letter from Matthew J. Camardella to OFCCP Regional Director Janette Wipper, dated October 19, 2016.

5. Attached as **Exhibit C** is a true and correct copy of a letter from Matthew J. Camardella to OFCCP Regional Director Janette Wipper, dated December 6, 2016.

I declare under the penalty of perjury that the foregoing is true and correct and that this declaration was executed in San Francisco, California on February 7, 2017.



MARC A. PILOTIN
Trial Attorney

CERTIFICATE OF SERVICE

I am a citizen of the United States of America. I am over eighteen years of age and am not a party to the within action. My business address is 90 7th Street, Suite 3-700, San Francisco, California 94103. On February 7, 2017, I served the within

1. **PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT**
2. **PLAINTIFF'S MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT**
3. **DECLARATION OF MARC A. PILOTIN IN SUPPORT OF PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT**

on the Defendant in this action via email addressed to:

Duff, Daniel V., III (Long Island) <Daniel.Duff@jacksonlewis.com>;
Camardella, Matthew J. (Long Island) <CamardeM@jacksonlewis.com>;
Sween, Lisa Barnett (San Francisco) <Lisa.Sween@jacksonlewis.com>
Suits, Eric E. (Sacramento) <Eric.Suits@Jacksonlewis.com>

Executed: February 7, 2017



/s/Llewlyn D. Robinson
LLEWLYN D. ROBINSON
Paralegal Specialist

OFFICE OF THE SOLICITOR
UNITED STATES DEPARTMENT OF LABOR

Exhibit A-1

SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS OFFEROR TO COMPLETE BLOCKS 12, 17, 23, 24, & 30				1. REQUISITION NUMBER		PAGE 1 OF	
2. CONTRACT NO. GS07F227BA		3. AWARD/EFFECTIVE DATE 02 Jun 2014		4. ORDER NUMBER		5. SOLICITATION NUMBER 7FCB-H2-070541-B -- REFRESH #16	
7. FOR SOLICITATION INFORMATION CALL:		a. NAME GREATER SW ACQ CTR				b. TELEPHONE NUMBER (No collect calls)	
9. ISSUED BY GREATER SW ACQ CTR 819 TAYLOR STREET, 7A37 FORT WORTH, TX, 76102		CODE		10. THIS ACQUISITION IS <input checked="" type="checkbox"/> UNRESTRICTED <input type="checkbox"/> SET ASIDE: % FOR <input type="checkbox"/> SMALL BUSINESS <input type="checkbox"/> HUBZONE SMALL BUSINESS <input type="checkbox"/> 8(A) NAICS: SIZE STANDARD:		11. DELIVERY FOR FOB DESTINATION UNLESS BLOCK IS MARKED <input checked="" type="checkbox"/> SEE SCHEDULE <input type="checkbox"/> 13a. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700) 13b. RATING 14. METHOD OF SOLICITATION <input type="checkbox"/> RFQ <input type="checkbox"/> IFB <input checked="" type="checkbox"/> RFP	
15. DELIVER TO ORDERING AGENCY		CODE		16. ADMINISTERED BY SEE BLOCK 9			
17a. CONTRACTOR/OFFEROR GOOGLE INC. 1600 AMPHITHEATRE PKWY MOUNTAIN VIEW, CA, 940431351 ,. DUNS Number :060902413 TELEPHONE NO.		CODE		FACILITY CODE		18a. PAYMENT WILL BE MADE BY ORDERING AGENCY	
<input type="checkbox"/> 17b. CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER		18b. SUBMIT INVOICES TO ADDRESS SHOWN IN BLOCK 18a UNLESS BLOCK BELOW IS CHECKED <input type="checkbox"/> SEE ADDENDUM					
19. ITEM NO.	20. SCHEDULE OF SUPPLIES/SERVICES			21. QUANTITY	22. UNIT	23. UNIT PRICE	24. AMOUNT
	Advertising and Integrated Marketing Solutions (AIMS)						
(Use Reverse and/or Attach Additional Sheets as Necessary)							
25. ACCOUNTING AND APPROPRIATION DATA						26. TOTAL AWARD AMOUNT (For Govt. Use Only)	
<input checked="" type="checkbox"/> 27a. SOLICITATION INCORPORATES BY REFERENCE FAR 52.212-1, 52.212-4. FAR 52.212-3 AND 52.212-5 ARE ATTACHED. ADDENDA						<input type="checkbox"/> ARE <input type="checkbox"/> ARE NOT ATTACHED	
<input type="checkbox"/> 27b. CONTRACT/PURCHASE ORDER INCORPORATES BY REFERENCE FAR 52.212-4. FAR 52.212-5 IS ATTACHED. ADDENDA						<input type="checkbox"/> ARE <input type="checkbox"/> ARE NOT ATTACHED	
<input type="checkbox"/> 28. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN <u>N/A</u> COPIES TO ISSUING OFFICE. CONTRACTOR AGREES TO FURNISH AND DELIVER ALL ITEMS SET FORTH OR OTHERWISE IDENTIFIED ABOVE AND ON ANY ADDITIONAL SHEETS SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED HEREIN.				<input type="checkbox"/> 29. AWARD OF CONTRACT: REF. _____ OFFER DATED _____. YOUR OFFER ON SOLICITATION (BLOCK 5), INCLUDING ANY ADDITIONS OR CHANGES WHICH ARE SET FORTH HEREIN, IS ACCEPTED AS TO ITEMS:			
30a. SIGNATURE OF OFFEROR/CONTRACTOR Courtney K Rose GOOGLE INC. on 05/28/2014				31a. UNITED STATES OF AMERICA (SIGNATURE OF CONTRACTING OFFICER) Lorena Aslan GSA/FSS on 05/28/2014			
30b. NAME AND TITLE OF SIGNER (Type or print) See Above		30c. DATE SIGNED		31b. NAME OF CONTRACTING OFFICER (Type or print) See Above		31c. DATE SIGNED	

**GENERAL SERVICES ADMINISTRATION
FEDERAL ACQUISITION SERVICE
AUTHORIZED FEDERAL SUPPLY SCHEDULE CATALOG/PRICE LIST**

On-line access to contract ordering information, terms and conditions, up-to-date pricing, and the option to create an electronic delivery order is available through **GSA Advantage!**, a menu-driven database system. The INTERNET address for **GSA Advantage!** is <http://www.gsaadvantage.gov>

SCHEDULE TITLE: Advertising & Integrated Marketing Solutions (AIMS)
FSC Group: 541

CONTRACT NUMBER: Contractor shall insert contract number from SF 1449, Block 2

CONTRACT PERIOD: Jun 2, 2014 – Jun 1, 2019

For more information on ordering from Federal Supply Schedules click on the GSA Schedules link at www.gsa.gov

CONTRACTOR: Google Inc.
1600 Amphitheatre Parkway
Mountain View, CA – 94043 1103
Phone: 202-346-1241 Fax: 202-346-1101 DUNS: 060902413
www.google.com

CONTRACTOR'S ADMINISTRATION SOURCE: Courtney Kuhl Rose
Head of Government and Associations
1101 New York Ave NW
Washington State : DC Zip : 20005
USA Phone : 202-346-1241
Email : ckuhl@google.com

BUSINESS SIZE: Large

Socioeconomic Indicators: Large

CUSTOMER INFORMATION:

1a. TABLE OF AWARDED SPECIAL ITEM NUMBERS (SINs)

SIN	DESCRIPTION
541-1	ADVERTISING SERVICES

1b. LOWEST PRICED MODEL NUMBER AND PRICE FOR EACH SIN:
(Government net price based on a unit of one)

<u>SIN</u>	<u>MODEL</u>	<u>PRICE</u>
------------	--------------	--------------

To be completed by contractor on text file submission

1c. HOURLY RATES: n/a

2. MAXIMUM ORDER*: \$1 million per SIN

*Ordering activities may request a price reduction at any time before placing an order, establishing a BPA, or in conjunction with the annual BPA review. However, the ordering activity shall seek a price reduction when the order or BPA exceeds the simplified acquisition threshold. Schedule contractors are not required to pass on to all schedule users a price reduction extended only to an individual ordering activity for a specific order or BPA.

3. MINIMUM ORDER: \$5,000.00

4. GEOGRAPHIC COVERAGE: Worldwide

5. POINT(S) OF PRODUCTION: NA

6. DISCOUNT FROM LIST PRICES: *GSA Net Prices are shown on the attached GSA Pricelist. Negotiated discount has been applied and the IFF has been added.*

7. QUANTITY DISCOUNT(S): NA

8. PROMPT PAYMENT TERMS: Net 30 Days. Information for Ordering Offices: Prompt payment terms cannot be negotiated out of the contractual agreement in exchange for other concessions.

9.a Government Purchase Cards must be accepted at or below the micro-purchase threshold.

9.b Government Purchase Cards are accepted above the micro-purchase threshold. Contact contractor for limit.

10. FOREIGN ITEMS: As Applicable or None

11a. TIME OF DELIVERY: Shipped 30 Days after receipt of order

11b. EXPEDITED DELIVERY: None Offered

11c. OVERNIGHT AND 2-DAY DELIVERY: None Offered.

11d. URGENT REQUIRMENTS: Customers are encouraged to contact the contractor for the purpose of requesting accelerated delivery.

12. FOB POINT: Destination

- 13a. ORDERING ADDRESS: same
- 13b. ORDERING PROCEDURES: For supplies and services, the ordering procedures, information on Blanket Purchase Agreements (BPA's) are found in FAR 8.405-3
- 14. PAYMENT ADDRESS: Same as contractor
- 15. WARRANTY PROVISION: Standard Commercial Warranty.
- 16. EXPORT PACKING CHARGES: None
- 16. TERMS AND CONDITIONS OF GOVERNMENT PURCHASE CARD ACCEPTANCE:
Minimum \$5,000.00
- 18. TERMS AND CONDITIONS OF RENTAL, MAINTENANCE, AND REPAIR (IF APPLICABLE): N/A
- 19. TERMS AND CONDITIONS OF INSTALLATION (IF APPLICABLE): N/A
- 20. TERMS AND CONDITIONS OF REPAIR PARTS INDICATING DATE OF PARTS PRICE LISTS AND ANY DISCOUNTS FROM LIST PRICES (IF AVAILABLE): N/A
- 20a. TERMS AND CONDITIONS FOR ANY OTHER SERVICES (IF APPLICABLE): N/A
- 21. LIST OF SERVICE AND DISTRIBUTION POINTS (IF APPLICABLE): N/A
- 22. LIST OF PARTICIPATING DEALERS (IF APPLICABLE): N/A
- 23. PREVENTIVE MAINTENANCE (IF APPLICABLE): N/A
- 24a. SPECIAL ATTRIBUTES SUCH AS ENVIRONMENTAL ATTRIBUTES (e.g. recycled content, energy efficiency, and/or reduced pollutants): N/A
- 24b. Section 508 Compliance for EIT: as applicable
- 25. DUNS NUMBER: 060902413
- 26. NOTIFICATION REGARDING REGISTRATION IN SYSTEM FOR AWARD MANAGEMENT (SAM) DATABASE: Contractor has an Active Registration in the SAM database.